

**REMARKS**

Claims 1, 3-7, 10-13, and 15-32 were presented for examination and were rejected. The applicant respectfully requests reconsideration in light of the following comments.

**35 USC § 103 Rejection of Claims 1, 3-7, 10-13, 15-29, and 31**

Claims 1, 3-7, 10-13, 15-29, and 31 were rejected under 35 USC § 103 as being obvious over the combination of US Patent No. 5,991,739 (hereinafter "*Cupps*") and US Patent No. 6,700,674 (hereinafter "*Otsuka*"). The applicant respectfully traverses the rejection for at least the reasons discussed below.

**(A). Independent claim 1** recites:

**1.** An online ordering system for food outlets, comprising:

at least a first computer system which is accessible via the Internet under at least one domain, in which data on food outlets are stored and on which an interactive program runs,

in each case a communication connection which can be established at least temporarily between the computer system and at least a large number of the food outlets covered and which is adapted to generate an e-mail comprising an order,

whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server, and whereby said system is adapted to connect an output device or display device comprising a fax machine at the food outlets to the first computer system, and whereby said system or a connected system or a connected fax server is adapted to transmit said fax to said fax machine,

wherein the ordering system is adapted to display a start page to the user depending on a chosen accessible address of the at least one domain of the computer system, which start page being designed appropriately for a target group or specifically for a target group.

Nowhere do *Cupps* and *Otsuka* (whether considered individually or in combination) teach, suggest, or motivate what claim 1 recites — namely, an online ordering system for food outlets comprising:

- a fax is generated from said e-mail by said system or a connected system or a connected fax server,

- whereby said system is adapted to connect an output device or display device comprising a fax machine at the food outlets to the first computer system, and
- whereby said system or a connected system or a connected fax server is adapted to transmit said fax to said fax machine.

The above limitations recited in claim 1 define the features of (1) generating a fax from an ordering e-mail by means of a computer system or a connected fax server, and (2) transmitting the fax to a fax machine at a food outlet.

At page 4 of the Final Office Action, the Examiner states that Cupps fails to teach or suggest the limitations at issue. The applicant agrees with this statement. As further discussed below, the applicant however disagrees with the Examiner's contention that Otsuka cures the deficiencies of Cupps with respect to these limitations.

According to the Final Office Action, the limitations at issue are disclosed at the following passages of Otsuka:

- Figure 1, Figure 9a, and Figure 9b,
- col. 1, line 62 through col. 2, line 12,
- col. 10, lines 16 – 17
- col. 12 lines 22 – 39, and
- col. 18, lines 4 – 33.

To the contrary, these cited passages from Otsuka at best disclose generating an e-mail from a facsimile so that the e-mail is sent instead of the facsimile. But nowhere does Otsuka teach, suggest, or otherwise motivate what is required by claim 1 — namely:

*"a fax is generated from [an] e-mail by [a] system ... whereby said system is adapted to connect an output device or display device comprising a fax machine at [ ] food outlets to [a] first computer system."*

In contrast to the Examiner's interpretation of the cited passages, Otsuka discloses just the opposite of what is being claimed. (*emphasis added*) For example, the beginning of the passage in col. 1, line 62 through col. 2, line 12 of Otsuka reads:

*"Additionally, when performing a facsimile transmission via the internet, when facsimile information, that has been converted to electronic mail ...."*

Unambiguously, this passage from Otsuka describes sending facsimile data by e-mail, rather than "a fax [that] is generated from [an] e-mail by [a] system," as required by claim 1.

Furthermore, according to Otsuka at col. 12, lines 22 – 39, the mechanism for sending facsimile data by e-mail (as discussed above) is described in more detail:

*"When sending a facsimile transmission as e-mail, by the internet route, the mail controller 25 converts the binary image data which is encoded by the encoder 17 into the text coded image data, and also performs a format conversion of the image data of the facsimile format into an e-mail format, which is sendable as e-mail ...."*

It is clear from this passage that the complete image data of the facsimile are converted and sent in an e-mail which serves as a container for the facsimile data.

Moreover, as depicted in Figure 9A and disclosed at col. 14, lines 29 – 65 of Otsuka, the system decides — at step (S170) — whether the image data are to be transmitted via internet or as a facsimile through the public communications switched network.

Likewise, the passage in col. 18, lines 4 - 33 cited by the Examiner also describes the decision of whether the facsimile should be transmitted via e-mail or public communication switched network.

In both cases, the facsimile is scanned-in and transformed into G3 format (which is the standard image format for facsimiles). A person skilled in the art would not interpret the above passages from Otsuka as teaching or otherwise suggesting the claimed invention. In fact, it can be said that the above passages from Otsuka "teaches away" from the claimed invention.

In view of the foregoing, it is clear that Otsuka does not teach, suggest, or motivate what is being alleged by the Examiner — namely, that an e-mail is converted into a facsimile which is then sent via public communication switched network.

In fact, according to all of the disclosed embodiments in Otsuka, binary image data of a document are generated in a first step, and then, in a second step, it is decided how these data are to be transmitted.

For at least the reasons discussed above, Otsuka fails to anticipate or obviate the limitations at issue recited in claim 1. Thus, Otsuka fails to cure the deficiencies of Cupps and, as a consequence, the Examiner's obviousness rejection of claim 1 is untenable.

Since claims 3-6, 16-22, and 26-29 depend on claim 1, and because claim 1 is believed to be allowable for the reasons presented, these dependent claims are likewise allowable. Moreover, the recitation of additional patentable features recited in these dependent claims provides an additional basis for their patentability.

**(B). Independent claim 7** recites:

**7.** A method of operating an online ordering system, comprising the following steps:

- display of a start page by said system,
- user input of a geographical specification into a device of said system,
- response of said system to the user input on the basis of data on food outlets being related to said system, which data being stored by said system, and display of the food outlets, preferably within the specified geographical area,
- user input into said device in such a way that one of the displayed food outlets is selected,
- response of said system to the user input on the basis of the stored data on the food outlets and display of the items of food offered by the food outlet selected,
- user input in such a way that one of the displayed items of food is selected or a table reservation is made,
- response of said system to the user input and transmission of the order to the food outlet selected, whereby an e-mail is generated comprising an order and a fax is generated from said e-mail by said system or a connected system or a connected fax server, and whereby said fax is transmitted to a fax machine at said selected food outlet,
- wherein in response to an accessible address of the computer system chosen a start page depending on a chosen accessible address of the at least one domain of the computer system is displayed to the user, which start page being designed appropriately for a target group or specifically for a target group.

Independent claim 7 is allowable over Cupps and Otsuka for essentially the same reasons as claim 1, above. Namely, these references fail to teach, suggest, or motivate a method of operating an online ordering system, comprising the following step:

- response of said system to the user input and transmission of the order to the food outlet selected,
- whereby an e-mail is generated comprising an order and a fax is generated from said e-mail by said system or a connected system or a connected fax server, and
- whereby said fax is transmitted to a fax machine at said selected food outlet.

For at least the reasons discussed above, Otsuka fails to anticipate or obviate the limitations at issue recited in claim 7. Thus, Otsuka fails to cure the deficiencies of Cupps and, as a consequence, the Examiner's obviousness rejection of claim 7 is likewise untenable.

Since claims 10-13, 23-25, and 31 depend on claim 7, and because claim 7 is believed to be allowable for the reasons presented, these dependent claims are likewise allowable. Moreover, the recitation of additional patentable features recited in these dependent claims provides an additional basis for their patentability.

**(C). Independent claim 15** recites:

**15.** Use of an online ordering system for food outlets, comprising:

at least a first computer system which is accessible via the Internet under at least one domain, in which data on food outlets are stored and on which a program runs,

in each case a communication connection which can be established at least temporarily between the computer system and at least a large number of all the food outlets covered and which,

generates an e-mail comprising an order, whereby

a fax is generated from said e-mail by said system or a connected system or a connected fax server, and whereby said system,

connects an output device or display device comprising a fax machine at the food outlets to the first computer system, and whereby said system or a connected system or a connected fax server transmits said fax to said fax machine,

wherein the ordering system is adapted to display a start page to the user depending on a chosen accessible address of the at least one domain of the computer system, which start page being designed appropriately for a target group or specifically for a target group.

Independent claim 15 is allowable over Cupps and Otsuka for essentially the same reasons as claim 1, above. Namely, these references fail to teach, suggest, or motivate use of an online ordering system for food outlets, comprising:

- generates an e-mail comprising an order,
- whereby a fax is generated from said e-mail by said system or a connected system or a connected fax server, and whereby said system, and
- connects an output device or display device comprising a fax machine at the food outlets to the first computer system,
- whereby said system or a connected system or a connected fax server transmits said fax to said fax machine.

For at least the reasons discussed above, Otsuka fails to anticipate or obviate the limitations at issue recited in claim 15. Thus, Otsuka fails to cure the deficiencies of Cupps and, as a consequence, the Examiner's obviousness rejection of claim 15 is likewise untenable.

### **35 USC § 103 Rejection of Claims 30 and 32**

Claims 30 and 32 were rejected under 35 USC § 103 as being obvious over the combination of Cupps, Otsuka, and US Patent No. 5,127,047 (hereinafter "*Bell*"). The applicants respectfully traverse the rejection for at least the reasons discussed below.

Bell fails to cure the deficiencies of Cupps and Otsuka discussed above. Since claims 30 and 32 depend on claims 1 and 7, respectively, and because claims 1 and 7 are believed to be allowable for the reasons presented, these dependent claims are likewise allowable. Moreover, the recitation of additional patentable features recited in these dependent claims provides an additional basis for their patentability.

### **No Waiver**

All of the applicant's arguments are without prejudice or disclaimer. The applicant reserves the right to discuss the distinctions between the applied art and the claims in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Office, the applicant does not acquiesce to the Office's additional statements. The distinctions discussed by the applicant above are sufficient to overcome the rejections.

Serial No. 09/869550

DeMont & Breyer Docket: 9771-190US  
Blumbach · Zinngrebe Docket: 01ICP0235USP

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